

**LOWELL TOWN COUNCIL
REGULAR MEETING
APRIL 27, 2009**

The regular meeting of the Lowell Town Council was called to order on Monday, April 27, 2009 at 7:00 P.M. by President Phillip Kuiper. The Pledge of Allegiance was recited and a moment of silence was observed. Clerk-Treasurer Judith Walters called the roll. Present were Council Members Donald Huseman, Shane Tucker, John Alessia, Phillip Kuiper and David Gard. Also present were Town Attorney Greg Sobkowski, Public Works Director Greg Shook, Town Administrator Susan Peterson, Community Development Director Wilbur Cox, Park Superintendent Tom Sullivan, Mark Downey of Commonwealth Engineers, two members of the media and eleven interested citizens.

TREASURER ' S REPORT

Councilman Gard made a motion to approve the Treasurer ' s Report for March, 2009 as presented, seconded by Councilman Tucker. The motion carried by voice vote.

APPROVAL OF MINUTES

Councilman Alessia made a motion to approve the minutes from the April 13th regular meeting and the April 23rd executive session, seconded by Councilman Huseman. The motion carried by voice vote.

APPROVAL OF VOUCHERS

President Kuiper stated that he had reviewed White Vouchers #1483-1540, Water Vouchers #2223-2253 and Waste Water Vouchers #3181-3207 and recommended them for approval along with a request to grant permission to pay the liability insurance invoice when it is received. Clerk-Treasurer Walters explained that the insurance renewal is April 30th and the town ' s agent is still reviewing the quotes that the town has gotten. She requested permission to pay the bill when it is received by April 30th. Councilman Huseman made a motion to approve the vouchers as listed and grant permission to pay the liability insurance invoice when it is received, seconded by Councilman Tucker. The motion carried by voice vote.

PETITIONS, COMMUNICATIONS, REMONSTRANCES, PROCLAMATIONS

Dog Fancy ' s Top Park for 2009 - Freedom Bark Park - President Kuiper announced that the Freedom Bark Park was named by Dog Fancy magazine the Top Park for 2009. He said that the magazine contains an article and pictures of the dog park and some of the members of the committee.

Proclamation - National Association of Letter Carriers Food Drive Day - May 9th - President Kuiper read a proclamation for National Association of Letter Carriers Food Drive Day on May 9th. Sharon

Patterson, President of the local union, stated that this year, the need is greater than ever and asked that everyone be generous. She said that since school will be letting out soon, many children will not have access to the school breakfast and lunch programs through the summer. Councilman Alessia made a motion to approve the proclamation, seconded by Councilman Gard. The motion carried by voice vote.

ORDINANCES & RESOLUTIONS

2nd Reading - Ordinance #2009-05 - Amending Chapter 71 & 72 - Traffic & Parking

2nd Reading - Ordinance #2009-06 - Amending Chapter 75 - Parking Schedule - President Kuiper asked if the Council would consider tabling these items until the next meeting when Chief Shelhart would be present. He said he would like to open the matter up for discussion again. He said he has a couple of things he would like to consider changing for the second reading. Councilman Gard made a motion to table, seconded by Councilman Tucker. President Kuiper said he had given a copy of the ordinances to some of the local shop owners who also had some very good suggestions. The motion carried by voice vote.

Resolution #2009-07 - Approving and Adopting SRF Preliminary Engineering Report - Wastewater Treatment Plant Improvements - President Kuiper read Resolution #2009-07 to Approve and Adopt SRF Preliminary Engineering Report (PER) for Wastewater Treatment Plant Improvements. Councilman Huseman made a motion to adopt Resolution #2009-07, seconded by Councilman Alessia. The motion carried by voice vote.

Resolution #2009-08 - SRF Signatory Authorization - President Kuiper read Resolution #2009-08 SRF Signatory Authorization. Councilman Alessia made a motion to adopt Resolution #2009-08, seconded by Councilman Tucker. The motion carried by voice vote.

Resolution #2009-09 - Approving and Adopting SRF Preliminary Engineering Report - Automatic Meter Reading System Project - President Kuiper read Resolution #2009-09 to Approve and Adopt SRF Preliminary Engineering Report (PER) for the Automatic Meter Reading System Project. Councilman Gard made a motion to adopt Resolution #2009-09, seconded by Councilman Alessia. President Kuiper asked Mark Downey of Commonwealth Engineers if he had anything to comment about this matter. Mr. Downey said that it would be a good time to announce the award of a grant to the town for the project. He explained that the original request was for \$700,000 in financing for the replacement of water meters with automatic read systems. They are providing the town with a loan forgiveness, which equates to a grant, in the amount of \$280,000. This is 40% of the cost of the project. President Kuiper stated that Lowell and Hammond were the only two water projects to receive this grant funding, if the newspaper article he read was correct. The motion carried by voice vote.

Resolution #2009-10 - SRF Signatory Authorization - President Kuiper read Resolution #2009-10 SRF Signatory Authorization. Councilman Huseman made a motion to adopt Resolution #2009-10, seconded by Councilman Tucker. The motion carried by voice vote.

Enter into agreement with Commonwealth Engineers - Water Meter Reading Project - Mr. Downey explained that the agreements were the same forms that had been used for the last two projects for the East Side Sewer and the WWTP for engineering services. Councilman Tucker made a motion to enter into an agreement with Commonwealth Engineers for engineering services for the water meter reading project, seconded by Councilman Huseman. The motion carried by voice vote.

UNFINISHED BUSINESS

Public Works Department Update - Nothing was reported for any of the following items: WWTP JMOB Requests, Water Infrastructure Improvement Plan, East Side Sewer Project.

Streets/Sidewalks - 2009 Street Paving Project - Director Shook said that President Kuiper had asked him about the possibility of discussing the use of Gaming Funds for a street paving project this year. President Kuiper said that Clerk-Treasurer Walters had been trying to save the Gaming Funds for a water project that doesn't look like it is going to happen in the very near future. He wondered if the Council wanted to consider releasing some of those funds for paving. Discussion followed regarding doing just paving or doing curbs and sidewalks as well. Councilman Huseman commented that he had been contacted by some residents in Indian Heights about problems with curbs and sidewalks. Director Shook pointed out that doing curbs and sidewalks uses up a lot more funds and less area can be covered. He also reported that the town had applied for stimulus funds to do sidewalks from Fremont Street to Burr Street along Rt 2. He had recently received notification that the application had been received and has been given a designation number so it does meet the criteria set forth and is in the process. At the current time it is not known if the application will be funded. Clerk-Treasurer Walters reported that the Gaming Fund has approximately \$500,000, with \$150,000 being set aside for the Burr Street/Rt 2 project. She also said that the Council needs to decide if they want to hold some aside for the water project or not. There is about \$90,000 in the Local Road & Street Fund and Major Moves to be spent in 2009. Director Shook was asked to prepare a list of streets that need work along with some areas of curbs and sidewalks and estimated costs. Clerk-Treasurer Walters asked if the sidewalks that Councilman Huseman had commented about might qualify for the CDBG project.

Burr/Rt 2 Project - President Kuiper asked Director Shook for a progress report. Director Shook reported that utility relocations are still being done. AT&T has been moving their lines. NIPSCO has been there moving poles and there is also a gas line that has to be moved. Once the utility work is done, Gariup Construction will come in, set up the traffic control and begin the project. Director Shook said that he does not have a time line for that since they have not yet had their first meeting.

NIRPC - Clerk-Treasurer Walters provided the Council with a memo from NIRPC. They are wanting to know if Lowell is interested in going in on a contract for all municipalities to look at funding for stimulus projects. The town's portion, based on the number of road miles, would be a little over \$400 on a \$60,000 contract. President Kuiper said he wasn't sure what the town gets for the \$400 and suggested any motion that might be made could include the Clerk-Treasurer getting more

information. Clerk-Treasurer Walters stated that originally, Lowell was told they were not part of the Chicago Metropolitan Planning Area and doesn't go through NIRPC for grants, they go directly through INDOT. It could be that there are more grants available that they are going to be looking at. The memo from NIRPC was just received that day and they want an answer by May 1st. President Kuiper asked Mr. Downey if he had any information about this matter. Mr. Downey said that the town has always been under OKRA grants because Lake County is an entitlement county. He said if Lowell could apply for OKRA grants separately, there is a lot of money in OKRA right now. He said they are going through three rounds of grants this year. President Kuiper said he could support it if it was worth the benefit, but he just doesn't know. Councilman Gard made a motion to approve, subject to more investigation, seconded by Councilman Huseman. The motion carried by voice vote.

Distribution of hotel/motel tax funds from 2008 - President Kuiper reported that he, Councilman Alessia, Clerk-Treasurer Walters and Administrator Peterson met to review the applications for distribution of hotel/motel tax funds. As a result of the review, the committee made the following recommendations to the Town Council: \$175 to Three Creeks Historical Association for the promotion of their annual Apple Fest; \$200 to the Freedom BMX organization for the promotion of various events; \$600 to the Lowell Parks Department for the promotion of the "Parade of Lights"; \$1,000 to the Lowell Downtown Merchants Association for advertising in the Lake County Visitors Guide; \$1,000 to the Chamber of Commerce for the promotion of the "Cobe Cup Race", the "Duck Race" and the Mill Street car shows; \$3,000 to the Labor Day Committee for the promotion of the Festival and Parade. Councilman Huseman asked if there were only certain things that the money can be distributed for. President Kuiper said that it has to be used for advertising and promoting the town. Clerk-Treasurer Walters explained that it is to bring tourism into town. Councilman Huseman made a motion to approve the recommendations of the committee, seconded by Councilman Tucker. The motion carried by voice vote.

Approve 2nd quarter Park User fees - President Kuiper read the list of park quarterly fees and charges for the 2nd quarter, 2009 for in town and out of town residents: Zumba - \$35/\$40 - Cardio - \$30/\$35; Guitar - \$85/\$90 - Tennis - \$30/\$35 - Skate - \$30/\$35 - Archery \$20/\$25 - BMX - \$20/\$25 - Photography - \$15/\$20 - Summer Camp - \$85/\$90 . Councilman Tucker made a motion to approve the 2nd quarter Park User fees, seconded by Councilman Alessia. Councilman Huseman asked a question about the charges and the minimum numbers. Councilman Alessia explained that if the minimum number of participants is not met, the program is cancelled. Park Superintendent Sullivan confirmed the information. The motion carried by voice vote.

NEW BUSINESS

Act on Compliance with Statement of Benefits for Real Estate Improvements (2) - Saco Industries - Attorney Herman Barber, representing Saco Industries, reported that they are in the eighth year on one ten-year abatement and in the sixth year on the second ten-year abatement. On the first abatement, they had estimated 156 employees and they now have 597 employees as of last year, with a payroll of \$9,458,458. On the second abatement, they had promised 60 employees when they actually came in with 443 employees. The second abatement was estimated to add 8 employees and they have 377

employees. They have well met their estimations of total employees and total income. He said when he was there getting the documents signed the other day, things appeared to be very active and he asked how things were going. He was informed that they were actually looking for people to work, that they couldn't get enough people to work. He requested approval of the Compliance with Statement of Benefits for Real Estate Improvements for both abatements. Councilman Gard made a motion to approve the Compliance with Statement of Benefits for Real Estate Improvements (2) for Saco Industries, seconded by Councilman Alessia. The motion carried by voice vote.

Enter into sewer facility reimbursement agreement - Tri-Creek School Corporation - President Kuiper said the document was quite lengthy and asked Attorney Sobkowski to summarize it. Attorney Sobkowski said this is the agreement for the new Middle School that is to be constructed. By the terms of the agreement, the town's engineer would design the sewers, the town would actually construct the sewers and the school would pay the cost. The estimated cost is \$1.4 million. Based on the school's usage, by the number of students converted to EDU's, the school's pro-rata share of the construction costs would be \$159,831. Under this agreement, the school would be entitled to recoup \$1,240,169 over a fifteen year period. That would be re-couped by the town imposing a recapture fee of \$1,239 per EDU, together with a \$35 administrative fee any time a connection is authorized to this line which the school is building. The recapture period is fifteen years so the agreement would terminate either at the end of fifteen years or when the school re-coups \$1,240,169, whichever comes first. It is his understanding that the School Board has already approved the agreement and he recommended the Town Council approve it as well. Councilman Gard made a motion to approve the agreement, seconded by Councilman Tucker. Councilman Tucker questioned the fifteen year period and Attorney Sobkowski explained that fifteen years is the maximum term for this kind of agreement under state statute. Councilman Huseman asked if this gets reviewed at the end of fifteen years. Attorney Sobkowski said no, whatever they can recover in fifteen years is what they are able to get back. The motion carried by voice vote.

Enter into contract with Commonwealth Engineers - President Kuiper said the Council needs to consider entering into a contract with Commonwealth Engineers for that project. Councilman Alessia made a motion to enter into a contract with Commonwealth Engineers, seconded by Councilman Huseman. The motion carried by voice vote.

Purchase of trees from Park Gift Fund for Freedom Park - President Kuiper stated that the Park Department has a balance in the Park Gift Fund in the amount of \$2,467 that has not been designated for anything. The balance has been carried for a couple of years and the Park Department is requesting permission to spend \$2,400 on trees. Councilman Huseman made a motion to approve the request and grant permission to purchase trees from the Park Gift Fund for Freedom Park, seconded by Councilman Tucker. The motion carried by voice vote.

Approve hot dog concession at Park - Park Superintendent Sullivan explained that the hot dog vendor normally sets up at Evergreen Park. The last couple of years, they have also worked the soccer picnics as well as the fishing derby. The Park Department did not charge them anything and this was their payment for being able to set up in the park and doing their business. President Kuiper asked for

more details of the arrangement. Superintendent Sullivan explained that they took care of the fishing derby and the two soccer picnics by supplying the hot dogs and buns with the Park Department providing the treats and drinks. President Kuiper said that neither proposal has that information included. Superintendent Sullivan said it was never included, it was always a verbal agreement between the concession person and the Park Board. Clerk-Treasurer Walters pointed out that it says they are not to sell drinks, but each proposal says they will sell Coke products. President Kuiper said that they cannot sell Coke products. Superintendent Sullivan said that in the past, they were allowed to sell tea and coffee if they chose to. Attorney Sobkowski said he looked at Policy #203 from the Park Department, which dates back to 2001, and it does prohibit the sale of beverages. If the sale of beverages is not going to be prohibited, then the policy ought to be amended so it is not being violated every time a vendor contract is entered into. If they are prohibited from selling the same products that are sold in the vending machines, those products need to be specific, as part of the approval. The other thing is, if they are going to provide food for these various events, then that needs to be part of the approval and to be explicit so there is no question that the town is going to get that in return for allowing them to sell concessions at the park and at the soccer games. Clerk-Treasurer Walters said she thought they should have had to show their health food permit since she did not get a copy of that. Once they get approved, they have to get a license from the town, but at this point, they don't know if either one of them has a health food permit. Rebecca Stormer said she was one of the people that put in a proposal. She said that she was under the assumption that she had to go to those events, not that it was an exchange for free hot dogs or free whatever they had. She said it was a misunderstanding on her part. President Kuiper stated he understood that in exchange for being able to sell food in the parks, they would be donating hot dogs and buns for the fishing derby and the two soccer picnics. Discussion followed regarding the exchange of donated hot dogs for the ability to sell hot dogs in the park for no charge. Ms. Stormer stated she was very willing to be able to set up in the park in exchange for donating hot dogs for the fishing derby and the two soccer picnics. She also stated that she had applied for her health permit through the county but had not received it yet. Discussion followed regarding the conflict of selling certain soft drink products since the town has an exclusive contract with Pepsi. Clerk-Treasurer Walters explained that there are vending machines in the parks that sell Pepsi products and the Park Department receives a commission for the products sold from the vending machines. Attorney Sobkowski said that ideally, what would be nice to have is a proposal from each vendor on what kind of compensation, whether it is in-kind or cash, they are willing to provide to the town in exchange for the use of the facilities so you can evaluate and see if one is a better deal for the town than another. He wondered how to choose between the two if they are the same. He did not know for sure what the basis is for making a decision. He said they also need to resolve the soft drink issue and make sure that is spelled out so that the town doesn't have any problem with the soft drinks. Linda Gunning, 1249 Driftwood Drive, asked why they couldn't have more than one vendor. President Kuiper informed her that it has been previous practice to only have one vendor in the parks and he didn't know how many the town could support. Councilman Alessia asked Ms. Stormer if she had a problem with limiting her beverage sales to lemonade and tea until the soft drink issue could be resolved. Ms. Stormer said that she had just listed all of her possibilities and that if she couldn't sell any beverages, it would just make it easier for her. Councilman Alessia made a motion to approve Ms. Stormer, since she lives in Lowell and appears to be offering more products than the other vendor, with no soft drinks sales until the issue can be

clarified, permitting her to sell hot dogs, polish, beef sandwiches, pop corn, candy, nachos, chips, walking tacos, and possibly cotton candy with the verbal understanding that she will provide hot dogs at the fishing derby and the end-of-season soccer parties and providing her county health permit when it is received, seconded by Councilman Gard. The motion carried by voice vote.

Freedom Park - President Kuiper stated that Freedom Park is looking for a little help with running additional electric lines. They have an estimate of \$10,559 that includes a transformer. He said that the Council has helped them out with some electric lines in the past in addition to several other projects and thought the Gaming Fund would have to be used. Clerk-Treasurer Walters reported that after speaking with counsel, it had been determined that Cumulative Funds can also be used. Director Shook asked Superintendent Sullivan if the transformer that was installed for the BMX track would be big enough for Little League. Superintendent Sullivan said that he was told that the one by the soccer field should supply what Little League needs but then after speaking with someone from Little League, he thought they were wanting a 3-Phase. Director Shook said that he didn't think they would actually know what they are going to need until they get to the point where the engineers and everybody has completed looking at it. They have not gotten into the agreement with Little League yet and he has not had a chance to discuss it with counsel, but in their agreement, they are asking for Freedom Park to extend electrical service onto Freedom Park property and then whereby they would take it on. Water and sewer will be another issue yet that they just started looking at last week. President Kuiper asked Council members if there was a maximum amount they wanted to consider giving to Freedom Park for electrical service. He thought they had already given \$4,500 toward electric service in the past. Clerk-Treasurer Walters asked if NIPSCO is offering \$10,500 for what they do now and then if they come in and look at the Little League, wouldn't it be cheaper for them to do both at the same time. Director Shook said he thought the electric service they are talking about now is the one that is supposed to go more toward the Dog Park. Superintendent Sullivan said it was on the south side of the park and would provide electric for all of the shelters that will be built in that area in the future. President Kuiper asked Superintendent Sullivan if he would bring back more information on the whole park plan. Superintendent Sullivan said he should have some numbers from Little League by that time.

ANNOUNCEMENTS

President Kuiper announced the next regular meeting to be held on Monday, May 11, 2009 at 7:00 P.M.

MEDIA QUESTIONS/PUBLIC COMMENTS

A member of the media asked what some of the issues were that they wanted to look at regarding the Parking Ordinances that were tabled earlier in the meeting. President Kuiper said one item is the actual initial fee. He said the ordinance also says that even with the parking permit being paid, it does not guarantee a parking spot and he would like to see that change. He thought perhaps they could post the permit number on a certain spot to reserve it for the permit holder. Councilman Huseman said he thought there were some streets on the list that should be taken off. President Kuiper said he

did not want to see any changes to the proposed fines. The media member asked regarding the sewer agreement if the connections were for new homes up to fifteen years and what EDU was. Attorney Sobkowski explained it stood for equivalent dwelling unit.

Linda Gunning, 1249 Driftwood Drive, asked if the Park Department was different and why couldn't they give the \$2,000 that was discussed earlier for trees to the electric lines. President Kuiper explained that Freedom Park is made up of the three townships and is basically a separate entity from the Park Department and has a separate board.

Paul Kristina, 269 Washington, asked if they had any information on the Parking Ordinance that he could look at. President Kuiper said he could provide him with a copy to review.

Councilman Huseman stated he would like to take this opportunity to thank Sara Pierce for being so alert and getting a hold of him. While she was walking her dog, she noticed a water main leak under the bridge and it could have gone on for a long time without her being so observant. The water department was there to start repairs within an hour of her calling to report it.

Councilman Huseman asked Mr. Downey to give an update on the Powell Ditch. Mr. Downey said that Roger Koslowski had been up to work on that and was getting some numbers together. Director Shook said he has not spoken with him this week but he can call him tomorrow and get back with Councilman Huseman with an update.

Councilman Gard made a motion to adjourn, seconded by Councilman Alessia at 7:58 P.M.

ATTEST:

Phillip Kuiper, President

Judith Walters, Clerk-Treasurer